

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TOMITA TECHNOLOGIES USA, LLC, and
TOMITA TECHNOLOGIES INTERNATIONAL,
INC.,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF
AMERICA INC.

Defendants.

11 Civ. 04256 (JSR)
ECF Case

**NOTICE OF MOTION IN SUPPORT
OF DEFENDANTS' MOTION *IN*
LIMINE TO EXCLUDE
CUMULATIVE EXPERT
TESTIMONY BY PLAINTIFFS**

PLEASE TAKE NOTICE that pursuant to Rule 9 of the Individual Rules of Practice of Hon. Jed. S. Rakoff, defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively, "Nintendo") move this Court for an order precluding plaintiffs from presenting any and all cumulative expert testimony or opinions that plaintiffs may seek to introduce through Gregg Favalora and John Merritt and to limit plaintiffs to one of these two expert witnesses.

In support of this motion, Nintendo shall rely upon this Notice of Motion, the Memorandum of Law in Support of Defendants' Motion *in Limine* to Exclude Cumulative Expert Testimony by Plaintiffs, and the Declaration of James S. Blank, dated July 21, 2015, together with its exhibits.

In accordance with Rule 9 of the Individual Rules of Practice of Hon. Jed S. Rakoff, the anticipated schedule for service and filing of the parties' papers is as follows:

Nintendo's Motion July 21, 2015

Plaintiffs Tomita Technologies USA, LLC and Tomita Technologies International, Inc. July 28, 2015
Response Brief

Oral argument has not been scheduled.

Dated: July 21, 2015

Respectfully submitted,

KAYE SCHOLER LLP

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